

REMARKS/ARGUMENTS

The office action of October 13, 2009 has been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested. Claims 1-16 and 18-20 remain in this application. Claim 17 had been canceled without prejudice or disclaimer. Claims 14 and 18-20 have been withdrawn.

Affirmation of Restriction Requirement

Applicants affirm the election of Group I, claims 1-13, 15, and 16 drawn to pyrazole compounds of Formula 1A or 1B. Applicants further affirm the election of species for examination purposes only. As it appears the elected species has been determined allowable, the examination should have been extended to other species within the generic claim. As no prior art has been applied against the generic claim, claim 1 should be allowable.

The Office Action notes that the remaining subject matter of claims 23-36 is withdrawn. This is confusing as claims 23-36 do not exist. Clarification is requested. Further, the Examiner required an election of species, not a restriction requirement of the generic claim.

It appears with the amendment to claim 1, allowable subject matter should be indicated, and applicants are entitled to rejoinder of method claims limited to the same indicated allowable subject matter.

Rejections under 35 U.S.C. § 112, first paragraph

Claims 1-13, 15, and 16 stand rejected under 35 USC 112, first paragraph, for the terms hydrates and solvates. In order to advance prosecution, the terms solvate and hydrate have been deleted from claim 1. Withdrawal of this rejection is requested.

Applicants do not consider that solvates and hydrates are different chemical forms of a compound of formula I. Instead, solvates and hydrates are different physical forms of the compound. Certainly a solvate or a hydrate of a compound of formula I still requires the compound of formula I, and therefore incorporates the invention defined by the now amended claims. Thus, one producing a solvate or hydrate of a compound of formula I makes use of that invention.

As the skilled practitioner recognizes, a hydrate is a molecule, for example the claimed molecule, in combination with a specific number of water molecules arranged in a particular fashion around the molecule. The solvate is a molecule, for example the claimed molecule, associated with a specific number of solvent molecules arranged in a particular fashion around the claimed molecule. Regardless of the physical form, the compound is still present.

CONCLUSION

It is believed that no fee is required for this submission. If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.

All rejections having been addressed, applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same.

Respectfully submitted,
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